

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C 20554

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In the Matter of)

Preemption of Local Zoning Regulation)
of Satellite Earth Stations)

IB Docket No. 95-59
DA 91-577
45-DSS-MISC-93

COMMENTS OF THE
NATIONAL TELEPHONE COOPERATIVE ASSOCIATION

The National Telephone Cooperative Association ("NTCA") submits these comments to the Commission's Notice of Proposed Rulemaking released May 15, 1995, (FCC 95-180). The Commission proposes to amend its preemption of local zoning rules that affect its regulation of satellite earth stations.

NTCA is an association representing approximately 500 small and rural independent local exchanges carriers ("LECs") providing telecommunications services to interexchange carriers and subscribers throughout rural America. Some NTCA members often direct broadcast satellite services to their subscribers.

DISCUSSION

The Commission proposes to modify its preemption rule in three ways to: (1) include procedures by which it will review zoning disputes after exhaustion of only the local administrative remedies, not "all legal remedies," (2) revise its basic preemption standard to provide greater certainty, and (3) provide for an explicit procedure by which cities can request waivers of the entire preemption rule.

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NTCA supports the proposed revisions regarding satellite earth stations for such devices themselves and as precedent, because it believes the speedy deployment of wireless services and emerging technologies will generally benefit the public. Long delays caused by local zoning disputes are harmful to the public because they impose additional and unnecessary costs on providers. Wireless providers will be paying the federal treasury for use of the spectrum, must build out systems before they can recover their costs. In addition, they will increasingly face the risks of a very competitive market. They should not have to pay exhoribant or unnecessary fees to put up towers or install antennas needed to provide services under their federally awarded licenses. Unfortunately, local disputes lend themselves to enormous costs and thorny delays. Rules that minimize such disputes in the first place are in the public interest.

The process of getting to "exhaustion of all legal remedies" in zoning disputes can be of interminable duration. The disputes can outlive the federal licensing period and licensees can lose control of their deployment schedules. Auctions have been intended to and are premised on the assumption of a speedy regulatory process and procedures that facilitate quick deployment. NTCA supports the Commission's preemption modifications because its members are interested in speedy procedures and reduced regulatory burdens. The Commission should

specifically provide that it will complete its review of zoning disputes within a short period.

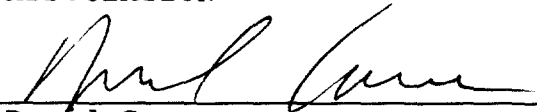
The Commission's presumption of unreasonableness with respect to ordinances regulating Direct Broadcast Satellite ("DBS") and Very Small Aperture Terminals ("VSATS") will serve the public interest. NTCA agrees that the smaller dishes these services utilize do not present significant aesthetic or health and safety issues. On balance, the public is better served by regulations that reduce local burdens on these services. It goes without saying, that the Commission should also reduce burdensome and unneeded regulations on these services.


CONCLUSION

In light of the above, NTCA urges the Commission to adopt preemption rules that ensure speedy resolution of zoning disputes involving satellite stations.

Respectfully submitted,

NATIONAL TELEPHONE COOPERATIVE
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July 14, 1995

CERTIFICATE OF SERVICE

I, Gail C. Malloy, certify that a copy of the foregoing Comments of the National Telephone Cooperative Association in IB Docket No. 95-59 was served on this 14th day of July 1995, by first-class, U.S. Mail, postage prepaid, to the following persons on the attached list.


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